## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF VIRGINIA ABINGDON DIVISION

UNITED STATES OF AMERICA	)	
	)	Case No. 1:06CR00062
v.	)	ORDER
DAMIAN ANTONIO MURPHY,	)	By: James P. Jones
Defendant.	)	United States District Judge

For the reasons set forth in the Opinion accompanying this Final Order, it is **ORDERED** as follows:

- 1. The defendant's "MOTION FOR RELIEF FROM VOID JUDGMENT SUPPORTING MEMORANDUM OF POINTS AND AUTHORITIES, PURSUANT TO 60(b)(4)"(ECF No. 311) is DENIED, and the motion is CONSTRUED as a Motion to Vacate, Set Aside or Correct Sentence, pursuant to 28 U.S.C.A. § 2255;
- 3. The Clerk is DIRECTED to redocket the motion (ECF No. 311) as a § 2255 motion;
- 4. The § 2255 motion is hereby DENIED without prejudice as successive; and

5. A Certificate of Appealability is DENIED, based upon the court's finding that the defendant has not made the requisite showing of denial of a substantial right.

ENTER: December 5, 2013

/s/ James P. Jones

United States District Judge